

DISTRICT OF COLUMBIA RENTAL HOUSING COMMISSION

RH-TP-06-28,524

In re: 3133 Connecticut Ave., N.W.

Ward Three (3)

LLOYD SIEGEL, *et al.*
Tenants/Appellants

v.

B.F. SAUL COMPANY
Housing Provider/Appellee

ORDER ON MOTION FOR CONTINUANCE

May 1, 2015

SZEGEDY-MASZAK, CHAIRMAN. This case is on appeal to the Rental Housing Commission (Commission) from a final order issued by the Office of Administrative Hearings (OAH) based on a petition filed in the Housing Regulation Administration (HRA) of the District of Columbia Department of Department of Consumer and Regulatory Affairs (DCRA).¹ The applicable provisions of the Rental Housing Act of 1985 (Act), D.C. Law 6-10, D.C. OFFICIAL CODE §§ 42-3501.01-3509.07 (2001), the District of Columbia Administrative Procedure Act (“DCAPA”), D.C. OFFICIAL CODE §§ 2-501-510 (2001), and the District of Columbia Municipal Regulations (“DCMR”), 1 DCMR §§ 2800-2899 (2004), 1 DCMR §§ 2920-2941 (2004), 14 DCMR §§ 3800-4399 (2004) govern these proceedings.

¹ OAH assumed jurisdiction over tenant petitions from the DCRA, Rental Accommodations and Conversion Division (RACD) pursuant to the Office of Administrative Hearings Establishment Act, D.C. Law 14-76, D.C. OFFICIAL CODE § 2-1831.03(b-1)(1) (2007 Repl.). The functions and duties of RACD in DCRA were transferred to Department of Housing and Community Development (DHCD) by § 2003 the Fiscal Year 2008 Budget Support Act of 2007, D.C. Law 17-20, D.C. OFFICIAL CODE § 42-3502.04b (2010 Repl.).

On February 23, 2012, Andrew Reamer, Suzanne B. Crawford, Christine Burkhardt, Lloyd Siegel, Ken Mazzer, and Don Wassem filed a notice of appeal with the Commission.² On April 3, 2015, the Commission issued a Notice of Scheduled Hearing, setting a hearing date for May 5, 2015. On April 21, 2015, Tenants Suzanne Crawford and Christine Burkhardt (collectively, Tenants) filed a joint “Request for Postponement of Hearing and Renewed Request for Extension of Time to File Appeal Brief(s)” (Motion for Continuance).³ The Motion for Continuance requested a continuance of the May 5, 2015 hearing because the Tenants did not feel that they had sufficient time to prepare for the hearing. Motion for Continuance at 1-2. The Tenants had previously explained to the Commission in a request for an extension of time to file briefs (Request for Extension of Time) filed on April 10, 2015, that Ms. Crawford had “extraordinary family obligations” during the weekend of April 11-12, 2015 that would prevent her from devoting time to this appeal, and that Ms. Burkhardt was undergoing orthopedic surgery on April 16, 2015.⁴ Request for Extension of Time at 1-2. The Housing Provider filed an Opposition to the Motion for Continuance on April 30, 2015, asserting that the Motion for Continuance was “devoid of any good cause.”

The Commission’s regulations provide the following guidance regarding requesting a continuance of a Commission hearing, in relevant part:

3815.1 Any party may move to request a continuance of any scheduled hearing . . . if the motion is served on opposing parties and the Commission at

² The Commission notes that the ALJ found that Christine Burkhardt, Ken Mazzer, and Don Wassem did not meet the criteria to be considered tenants/petitioners in this matter. Reamer v. B.F. Saul Co., RH-TP-06-28,524 (OAH Feb. 3, 2012) at 5-6. Additionally, Andrew Reamer and Don Wassem previously filed motions to withdraw from the appeal, which were granted by the Commission on March 26, 2015, and April 15, 2015, respectively. See Reamer v. B.F. Saul Co., RH-TP-06-28,524 (RHC Apr. 15, 2015); Reamer v. B.F. Saul Co., RH-TP-06-28,524 (RHC Mar. 26, 2015).

³ Lloyd Siegel and Ken Mazzer did not join in the filing of the Motion for Continuance.

⁴ The Commission denied the Request for Extension of Time on April 15, 2015.

least five (5) days before the hearing or the due date; however, in the event of extraordinary circumstances, the time limit may be shortened by the Commission.

3815.2 Motions shall set forth good cause for the relief requested.

3815.3 Conflicting engagements of counsel, absence of counsel, or the employment of new counsel shall not be regarded as good cause for continuance unless set forth promptly after notice of the hearing has been given.

14 DCMR § 3815 (2004). *See, e.g., Chaney v. Am. Rental Mgmt. Co.*, RH-TP-06-28,366; RH-TP-06-28,577 (RHC Mar. 4, 2013) (finding good cause for a continuance where tenant's counsel was out of the country when the Commission's notice of hearing was issued, and the motion for continuance included counsel's flight reservations); *Salazar v. Varner*, RH-TP-09-29,645 (RHC July 19, 2012) (determining that counsel's conflicting schedule was not good cause for a continuance); *Prosper v. Pinnacle Mgmt.*, TP 27,783 (RHC Jan. 19, 2012) (determining that good cause for a continuance existed where tenant's counsel was in the hospital at the time the Commission issued its notice of hearing, and counsel provided a memorandum from his physician confirming counsel's medical condition).

Administrative tribunals "must be, and are, given discretion in the procedural decisions made in carrying out their statutory mandate." *Prime v. D.C. Dep't of Pub. Works*, 955 A.2d 178 (D.C. 2008) (quoting *Ammerman v. D.C. Rental Accommodations Comm'n*, 375 A.2d 1060, 1063 (D.C. 1977)). Continuances are committed to the sound discretion of the Commission. *Prime*, 955 A.2d at 178. *See, also, Chaney*, RH-TP-06-28,366; RH-TP-06-28,577; *Johnson v. MPM Mgmt., Inc.*, RH-TP-09-27,294 (RHC July 31, 2012); *Prosper*, TP 27,783.

The Commission observes that the Motion for Continuance was filed on April 21, 2015, more than five (5) days prior to the scheduled hearing on May 5, 2015. Motion for Continuance at 1. Therefore, the Tenants need only show good cause in support of their Motion for

Continuance. 14 DCMR § 3815; *see, e.g., Chaney*, RH-TP-06-28,366; RH-TP-06-28,577; *Salazar*, RH-TP-09-29,645; *Prosper*., TP 27,783.

The Commission's review of the record reveals that Ms. Burkhardt underwent surgery on April 16, 2015, less than three (3) weeks prior to the scheduled hearing date of May 5, 2015. Request for Extension at 102. The Commission also notes that the Tenants in this case are not represented by counsel. *See* Motion for Continuance; Request for Extension of Time. The Commission has repeatedly explained that it is aware of the central role that *pro se* litigants play in the implementation of the Act, and has recognized that *pro se* litigants may face considerable challenges in prosecuting their claims without legal assistance. *See Watkis v. Farmer*, RH-TP-07-29,045 (RHC Aug. 15, 2013) at n.14; *Barnes-Mosaid v. Zalco Realty, Inc.*, RH-TP-08-29,316 (RHC Sept. 28, 2012); *Chen v. Moy*, RH-TP-08-29,340 (RHC Mar. 27, 2012); *see also, e.g., Goodman v. D.C. Rental Hous. Comm'n*, 573 A.2d 1293, 1298-99 (D.C. 1990).

Mindful of such considerations, the Commission in its reasonable discretion, determines that Ms. Burkhardt's recent surgery constitutes good cause for a continuance of the hearing in this appeal, and thus grants the Motion for Continuance.⁵ 14 DCMR § 3815; *Prime v. D.C. Dep't of Pub. Works*, 955 A.2d 178; *Watkis*, RH-TP-07-29,045 at n.14; *Barnes-Mosaid*, RH-TP-08-29,316; *Chen*, RH-TP-08-29,340. The hearing in this matter is rescheduled for **Thursday, June 4, 2015 at 10:00 a.m.**, in the Commission's hearing room located at 441 4th St. NW, Suite 1140N, Washington, DC, 20001. The failure of either party to appear at the scheduled time will not preclude the Commission from hearing the oral argument of the appearing party and/or

⁵ Having determined that Ms. Burkhardt set forth good cause for the continuance, the Commission does not, and need not rule on whether Ms. Crawford also set forth good cause.

disposing of the appeal. Failure of an Appellant to appear may result in dismissal of the party's appeal.

In light of the continuance of the hearing in this matter, the Commission will also extend the time for the parties to file appellate briefs, in accordance with 14 DCMR § 3802.7-.8,⁶ as follows: briefs from Lloyd Siegel, Ken Mazzer, Suzanne Crawford, and Christine Burkhardt, the Tenants/Appellants, are due **May 13, 2015**; a brief from the Housing Provider is due **June 2, 2015**.⁷

SO ORDERED


PETER B. SZEGEDY-MASZAK, CHAIRMAN

JUDICIAL REVIEW

Pursuant to D.C. OFFICIAL CODE § 42-3502.19 (2001), "[a]ny person aggrieved by a decision of the Rental Housing Commission...may seek judicial review of the decision...by filing a petition for review in the District of Columbia Court of Appeals." Petitions for review of the Commission's decisions are filed in the District of Columbia Court of Appeals and are governed by Title III of the Rules of the District of Columbia Court of Appeals. The court may be contacted at the following address and telephone number:

D.C. Court of Appeals
Office of the Clerk
Historic Courthouse
430 E Street, N.W.
Washington, DC 20001
(202) 879-2700

⁶ 14 DCMR § 3802.7-.8 provide as follows:

3802.7 Parties may file briefs in support of their position within five (5) days of receipt of notification that the record in the matter has been certified.

3802.8 Parties may file responsive briefs within ten (10) days of service of the pleading to which the response is being filed.

⁷ The Commission, through the instant order, revokes its previous order of April 15, 2015, denying the Request for Extension of time for the Tenants to file a brief.

CERTIFICATE OF SERVICE

I certify that a copy of the **ORDER** in RH-TP-06-28,524 was served by first-class mail, postage prepaid, this **1st day of May, 2015**, to:

Copies to:

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